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OFFICE OF PETITIONS

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In re Patent No. 7,810,069 :
Charisus et al. : DECISION ON REQUEST FOR
Issue Date: October 5, 2010 : RECONSIDERATION OF
Application No. 09/839,526 : PATENT TERM ADJUSTMENT
Filed: April 20, 2001 :
Attorney Docket No. BOR-006 :
Title: METHODS AND SYSTEMS FOR :
RELATING DATA STRUCTURES AND :
OBJECT-ORIENTED ELEMENTS FOR :
DISTRIBUTED COMPUTING :
:

This is a decision on the petition filed on November 5, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred eighty-four (1,384) days.

The petition to correct the patent term adjustment to indicate one thousand three hundred eighty-four (1,384) days is **DISMISSED**.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 1154 (715 + 350 + 89) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 880 days.

The period of adjustment under 37 CFR 1.702(a) and the period of adjustment under 37 CFR 1.702(b) overlaps for a total of 395 days (45 days April 21, 2004 to June 4, 2004 and 350 days March 31, 2005 to March 15, 2006).

Patentees dispute the 21 and 36 day reduction for the submission of replacement drawings pursuant 37 CFR 1.704 (c)(10). Patentees maintain the submission on August 6, 2010 was a response to a Notice to File Corrected Application Papers ("Notice") mailed May 6, 2010. Patentees contend the second Notice of to File

Corrected Application Papers mailed on August 10, 2010 raised new issues, thus the applicant delay was five days. Patentees further argue that the response to the August 10, 2010 Notice submitted on August 27, 2010 resulted in 4 days of applicant delay with the mailing of the Response to the Rule 312 Communication mailed on August 30, 2010.

Patentees' argument has been considered but is not persuasive. Patentees acknowledge submitting replacement drawings after the mailing of the notice of allowance. The filing of replacement drawings after the mailing of a notice of allowance is a basis for reduction of patent term adjustment.

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

A review of the record shows a reduction pursuant to 37 CFR 1.704(c)(10) of 61 days for the submission of the drawings on August 6, 2010 is required. The reduction is calculated beginning August 6, 2010 and ending on October 5, 2010, the date the patent issued. The second Notice mailed on August 10, 2010 was not mailed in response to the submission of the drawings provided on August 6, 2010.

The submission of the response on August 27, 2010 in response to the August 10, 2010 Notice to File Corrected Application Papers resulted in a 4 day reduction. The reduction is calculated beginning August 27, 2010 and ending August 30, 2010, the date the Response to the Rule 312 Communication was mailed. However, the 4 days overlap with the 61 days of delay.

As such, the 61 days reflected in the record as 21 + 36 + 4 days will not be removed.

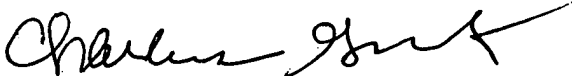
Further, patentees calculations include a 21 day adjustment pursuant to 37 CFR 1.702(a)(4). A review of the record shows that the issue fee was submitted on June 15, 2010; as such the issuance of the patent on October 5, 2010 was within four months. As such 21 days adjustment pursuant to 37 CFR 1.702(a)(4) is not warranted.

In view thereof, the patent is entitled to an overall adjustment of 1311 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.



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